

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
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APPEAL BRIEF

Dear Sir:

Appellants submit, the following Appeal Brief pursuant to 37 C.F.R. § 41.37 for consideration by the Board of Patent Appeals and Interferences. Please charge any additional fees or credit any overpayment to our deposit Account No. 02-2666. A duplicate copy of the Fee Transmittal is enclosed for this purpose.

TABLE OF CONTENTS

I.	REAL PARTY IN INTEREST	3
II.	RELATED APPEALS AND INTERFERENCES.....	3
III.	STATUS OF CLAIMS	3
IV.	STATUS OF AMENDMENTS	3
V.	SUMMARY OF CLAIMED SUBJECT MATTER	3
VI.	GROUND OF REJECTION TO BE REVIEWED ON APPEAL	12
VII.	ARGUMENTS.....	13
	A. Claims 1-3, 7-11, 13, 23, 25-27, 29-35, 42, 44, and 47 are not obvious over Yang in view of Shiimori, Higurashi, and Stewart.....	13
	B. Claims 24, 43, and 46 are not obvious over Yang in view of Shiimori further in view of Higurashi in view of Stewart and further in view of Lin.....	17
	C. Claims 38 and 40 are not obvious over Yang in view of Lin in view of Higurashi and in further view of Stewart.	18
	D. Claims 45 and 48 are not obvious over Yang in view of Shiimori in view of Higurashi in view of Stewart and in further view of Vasudevan.....	18
	E. Claims 49, and 50 are not obvious over Yang in view of Lin in view of Higurashi in view of Shiimori and in further view of Stewart.	19
	F. Claim 51 is not obvious over Yang in view of Lin in view of Higurashi in view of Shiimori in view of Stewart and in further view of Vasudevan.	20
VIII.	CONCLUSION.....	21
IX.	CLAIM APPENDIX.....	22
X.	EVIDENCE APPENDIX.....	30
XI.	RELATED PROCEEDINGS APPENDIX	30

I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Sony Corporation and Sony Electronics Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to the appellants, the appellants' legal representative, or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-3, 7-11, 13, 23-27, 29-35, 38, 40, and 42-51 of the present application are pending. Claims 4-6, 12, 14-22, 28, 39, 41 have been canceled. Claims 36 and 37 have been withdrawn. Claims 1-3, 7-11, 13, 23-27, 29-35, 38, 40, and 42-51 are rejected under 35 U.S.C. §103(a). The Appellants hereby appeal the rejection of claims 1-3, 7-11, 13, 23-27, 29-35, 38, 40, and 42-51.

IV. STATUS OF AMENDMENTS

On May 18, 2009, Appellants filed a response to a Final Office Action dated March 31, 2009. The Examiner issued an Advisory Action on May 28, 2009. On July 29, 2009, the Appellants filed a response to the Final Office Action dated March 31, 2009 and Advisory Action dated May 28, 2009. On July 31, 2009, Appellants filed a Notice of Appeal. The Examiner issued an Advisory Action on August 14, 2009. No amendments have been filed subsequent to the Advisory Action on August 14, 2009.

V. SUMMARY OF CLAIMED SUBJECT MATTER

1. Independent claims 1, 23, 38 and 49:

Independent claim 1 recites: A method for displaying images (Figure 4) comprising: specifying at least one source of a plurality of sources from which to access a plurality of presentation images to be displayed in a visual presentation (Figure 4, items 403, 405; page 8, lines 12-17; page 9, lines 14-15), the plurality of sources including a remote source (Figure 1,

database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19) and a local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20);

accessing a plurality of presentation images from the one or more specified sources by a server (Figure 4, item 407; page 16-17), one or more of the plurality of presentation images having inconsistent presentation attributes (Figure 4, item 421; page 10, lines 7-12);

arranging the plurality of presentation images by the server according to at least one characteristic provided by a client (Figure 4, item 419; page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

organizing the plurality of presentation images in the visual presentation by the server (Figure 4, items 421, 423, 425; page 10, lines 7-14), wherein organizing includes automatically modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images to have consistent presentation attributes (Figure 4, items 421, 423, 425; page 10, lines 8-12), wherein modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images includes modifying exposure of the one or more of the plurality of presentation images to be consistent (Figure 4, items 421, 423, 425; page 10, lines 7-8);

requesting and receiving compensation from the client before the visual presentation is sent to the client (page 10, lines 15-18), an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images, where the remote source is more expensive to access than the local source (page 10, line 20-21); and

transmitting the visual presentation from the server to the client (Figure 4, item 427; page 10, lines 13-14).

Independent claim 23 recites: A first computer-readable medium having computer-executable instructions to cause a processor of a server to create a visual presentation by performing operations (Figure 4, page 7, line 19 to page 8, line 9) comprising:

determining one or more sources of a plurality of sources from which to access a plurality of presentation images (Figure 4, items 403, 405; page 8, lines 12-17; page 9, lines 14-15), the plurality of sources including a remote source (Figure 1, database 140; page 5, line 23 to page 6,

line 10; page 9, lines 17-19) and a local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20);

accessing the plurality of presentation images from the one or more specified sources (Figure 4, item 407; page 16-17), the plurality of presentation images having inconsistent presentation attributes (Figure 4, item 421; page 10, lines 7-12);

arranging the plurality of presentation images according to characteristics preselected by a client, the characteristics including at least three of a distance, a perspective, a magnification, and an angle (Figure 4, item 419; page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

organizing the plurality of presentation images in the visual presentation (Figure 4, items 421, 423, 425; page 10, lines 7-14), wherein organizing includes automatically modifying the inconsistent presentation attributes of the plurality of presentation images to have consistent presentation attributes (Figure 4, items 421, 423, 425; page 10, lines 8-12), wherein modifying the inconsistent presentation attributes of the plurality of presentation images includes modifying the inconsistent presentation attributes including an exposure (Figure 4, items 421, 423, 425; page 10, lines 7-8); and

requesting and receiving compensation from the client before the visual presentation is sent to the client (page 10, lines 15-18), an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images, where the remote source is more expensive to access than the local source (page 10, line 20-21).

Independent claim 38 recites: A computerized system (Figure 4, page 7, line 19 to page 8, line 9; Figure 1, client 110; page 5, line 23 to page 6, line 10) comprising:

means for accessing a plurality of presentation images from at least one source of a plurality of sources (Figure 4, item 407; page 16-17), the plurality of sources including a source remotely located from the computerized system (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19) and a source local to the computerized system (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20);

means for receiving information identifying characteristics to produce a visual presentation from a client, the characteristics including a distance and a magnification (Figure 4, item 419; page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

means for arranging the presentation images according to the characteristics provided by the client (Figure 4, item 419; page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

means for organizing the plurality of presentation images in the visual presentation (Figure 4, items 421, 423, 425; page 10, lines 7-14), wherein organizing includes automatically modifying inconsistent presentation attributes of the plurality of presentation images to have consistent presentation attributes (Figure 4, items 421, 423, 425; page 10, lines 8-12);

means for modifying the inconsistent presentation attributes of the plurality of presentation images, the presentation attributes including exposure (Figure 4, items 421, 423, 425; page 10, lines 7-14); and

means for receiving compensation from the client before the visual presentation is sent to the client (page 10, lines 15-18), an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the source remotely located from the computerized system is more expensive to access than a source local to the computerized system (page 10, line 20-21).

Independent claim 49 recites: A method for displaying images (Figure 4) comprising:

selecting at least one characteristic being from a group including a distance, a perspective, a magnification, and an angle, the selecting being based on information provided by a client (page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

specifying how quickly a visual presentation zooms in or out if the distance or magnification characteristic from the group is selected (page 9, lines 6-8);

accessing a plurality of presentation images (Figure 4, item 407; page 16-17), one or more of the plurality of presentation images having inconsistent presentation attributes (Figure 4, item 421; page 10, lines 7-12);

arranging the plurality of presentation images by a server according to the at least one characteristic (Figure 4, item 419; page 10, lines 1-6; page 8, lines 19-24; page 9, lines 1-13);

organizing the plurality of presentation images in a visual presentation (Figure 4, items 421, 423, 425; page 10, lines 7-14), wherein organizing includes automatically modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images to have consistent presentation attributes (Figure 4, items 421, 423, 425; page 10, lines 8-12), wherein modifying the inconsistent presentation attributes of the one or more of the plurality of

presentation images includes modifying exposure for the one or more of the plurality of presentation images to be consistent throughout the plurality of presentation images (Figure 4, items 421, 423, 425; page 10, lines 7-8); and

receiving compensation from the client before the visual presentation is sent to the client (page 10, lines 15-18), an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19) and a local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20), where the remote source is more expensive to access than the local source (page 10, line 20-21).

2. Dependent claims 2-3, 7-11, 13, 24-27, 29-35, 40, 42-48, and 50-51

Dependent claim 2 recites: The method of claim 1 further comprising:

selecting the at least one characteristic being from the group consisting of a distance, a perspective, a magnification, and an angle (page 10, lines 1-6).

Dependent claim 3 recites: The method of claim 1, wherein modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images includes modifying size for the one or more of the plurality of presentation images to be consistent (page 10, lines 7-8).

Dependent claim 7 recites: The method of claim 1 wherein the images are digitalized images captured by a digital camera (Figure 1, lines 11-16).

Dependent claim 8 recites: The method of claim 1 wherein accessing the plurality of presentation images comprises:

uploading the plurality of presentation images from the client, the client being the local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20).

Dependent claim 9 recites: The method of claim 1 wherein accessing the plurality of presentation images comprises:

loading the plurality of presentation images from a database, the database being the remote source (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19).

Dependent claim 10 recites: The method of claim 1 wherein accessing the plurality of presentation images comprises:

uploading at least one of the plurality of presentation images from the client, the client being the local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20); and

loading at least one of the plurality of presentation images from a database, the database being the remote source (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19).

Dependent claim 11 recites: The method of claim 1 wherein accessing the plurality of presentation images comprises:

loading at least one of the plurality of presentation images from a computer-readable medium, the computer-readable medium being one of the one or more specified sources (page 5, lines 11-22).

Dependent claim 13 recites: The method of claim 1 further comprising:

saving the visual presentation on a computer-readable medium (page 5, lines 11-22).

Dependent claim 24 recites: The first computer-readable medium of claim 23, wherein the at least three characteristics includes the magnification if the visual presentation is to zoom away from a location (page 10, lines 1-6).

Dependent claim 24 recites: The first computer-readable medium of claim 23, wherein modifying the inconsistent presentation attributes of the plurality of presentation images includes modifying the inconsistent presentation attributes including a size and a color (page 10, lines 7-10).

Dependent claim 26 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

accessing an address for a location (page 8, lines 17-19).

Dependent claim 27 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

accessing location coordinates for a location (page 8, lines 17-19).

Dependent claim 29 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

accessing additional information, wherein the additional information is viewing preferences are selected by the client and affect the appearance of the visual presentation (page 8, lines 19-24).

Dependent claim 30 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

uploading the plurality of presentation images from the client, the client being the local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20).

Dependent claim 31 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

loading the plurality of presentation images from a database, the database being the remote source (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19).

Dependent claim 32 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

uploading at least one of the plurality of presentation images from the client, the client being the local source (Figure 1, client 110; page 5, lines 11-22; page 9, lines 19-20); and

loading at least one of the plurality of presentation images from a database, the database being the remote source (Figure 1, database 140; page 5, line 23 to page 6, line 10; page 9, lines 17-19).

Dependent claim 33 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

loading at least one of the plurality of presentation images from a second computer-readable medium (page 5, lines 11-22).

Dependent claim 34 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

sending the visual presentation to the client (Figure 4, item 427; page 10, lines 13-14).

Dependent claim 35 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

saving the visual presentation on a second computer-readable medium (page 5, lines 11-22).

Dependent claim 40 recites: The computerized system of claim 38 further comprising: means for modifying at least one of the inconsistent presentation attributes of the plurality of presentation images, the presentation attributes being size (page 10, lines 7-10).

Dependent claim 42 recites: The method of claim 1, wherein the specifying from the at least one source of the plurality of sources comprises:

sending a web page to the client, the web page identifying parameters that are used for accessing the plurality of presentation images (page 8, lines 10-21).

Dependent claim 43 recites: The method of claim 2, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying how quickly the visual presentation zooms in or out if the distance or magnification characteristic from the group is selected (page 10, lines 21-24).

Dependent claim 44 recites: The method of claim 2, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected (page 8, lines 22-24; page 9, lines 6-8).

Dependent claim 45 recites: The method of claim 1, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying whether the visual presentation appears in black-and-white or color (page 9, lines 11-13).

Dependent claim 46 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

specifying how quickly the visual presentation zooms in or out if the distance or magnification characteristic from the group is selected (page 10, lines 21-24).

Dependent claim 47 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected (page 8, lines 22-24; page 9, lines 6-8).

Dependent claim 48 recites: The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

specifying whether the visual presentation appears in black-and-white or color (page 9, lines 11-13).

Dependent claim 50 recites: The method of claim 49, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected (page 8, lines 22-24; page 9, lines 6-8).

Dependent claim 51 recites: The method of claim 49, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying whether the visual presentation appears in black-and-white or color (page 9, lines 11-13).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-3, 7-11, 13, 23, 25-27, 29-35, 42, 44, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,301,586 (Yang) in view of U.S. Patent No. 6,567,983 (Shiimori), U.S. Patent Publication No. 2003/0133019 (Higurashi) and U.S. Patent No. 6,571,221 (Stewart).
2. Claims 24, 43, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Shiimori in view of Stewart and in further view of U.S. Patent No. 6,369,835 (Lin).
3. Claims 38 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi and in further view of Stewart.
4. Claims 45 and 48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Shiimori in view of Higurashi in view of Stewart and in further view of U.S. Patent No. 6,892,351 (Vasudevan);
5. Claims 49 and 50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in further view of Stewart;
6. Claim 51 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in view of Stewart and in further view of Vasudevan

VII. ARGUMENTS

A. Claims 1-3, 7-11, 13, 23, 25-27, 29-35, 42, 44, and 47 are not obvious over Yang in view of Shiimori, Higurashi, and Stewart.

Claims 1-3, 7-11, 13, 23-27, 29-35, 42, 44, and 47 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,301,586 (Yang) in view of U.S. Patent No. 6,567,983 (Shiimori), U.S. Patent Publication No. 2003/0133019 (Higurashi) and U.S. Patent No. 6,571,221 (Stewart). Appellants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

To establish a *prima facie* case of obviousness, certain basic criteria must be met. For instance, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See MPEP §2143. Appellants respectfully submit that the combined teachings do not address each and every limitation, and thus, no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in Graham v. John Deere, 383 U.S. 1, 148 USPQ 459 (1966), stated: “Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined.” See MPEP §2141. In KSR International Co. vs. Teleflex, Inc., 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order *to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.*” *Emphasis Added*. The Court further required that an explicit analysis for this reason must be made. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” KSR, 127 S.Ct. at 1741, quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006).

In the instant case, in the event that the Board does not agree with Appellants that the combined teachings of the cited references fail to suggest every limitation set forth in the pending claims, Appellants respectfully submit that a *prima facie* case of obviousness has not been established because there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed. Thus, no *prima facie* case of obviousness has been established.

i) “Receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which one or more sources of a plurality of sources are accessed to retrieve the plurality of presentation images,” as delineated in independent claims 1, 23, 38 and 49.

Appellants respectfully submit that Yang, Shiimori, Higurashi, and Stewart, alone or in combination, fail to disclose at least “receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which one or more sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source and a local source, the remote source being different from the local source, the one or more sources including at least one of the remote source and the local source, where the remote source is more expensive to access than the local source,” as delineated in independent claims 1, 23, 38 and 49.

In the Final Office Action, the Examiner admits that Yang in view of Shiimori in view of Higurashi fails to teach or suggest “requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation image where a first remote source is more expensive to access presentation images than a local second source,” as delineated in independent claims 1, 23, 38, and 49 (Final Office Action, pages 4, 8, 15 and 19). However, Examiner alleges that Stewart teaches this element of the claims. Appellants respectfully disagree.

Stewart merely discloses each subscriber to the network service having a “value bucket” which determines the amount of network access or service available to the user. Billing for access to the network communication service, i.e., the amount the “value bucket” is drained or filled, may be based on one or more of a number of factors, including information stored in the

digital certificate, such as the geographic location of the user (Stewart, col. 3, lines 26-40). For example, the digital certificate of a user may contain information indicating the user is a member of the American Airlines Advantage program. If this user accesses the service provider's network through an access point located near an American Airlines gate or in an American Airlines Admiral's Club, American Airlines may choose to allow the user free or reduced rate access while connected to the network (Stewart, col. 3, lines 57-67).

Accordingly, in Stewart, a subscriber is merely given access to a service provider's network through an access point. In other words, the subscriber is being provided access to a network and is being billed for this access. In contrast the claims recite "receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on the one or more specified sources being accessed to retrieve the plurality of presentation images." *Emphasis added.* Given that the subscriber in Stewart is merely accessing a network, there is no teaching or suggestion in Stewart of sending the visual presentation to the user or retrieving presentation images. Moreover, in Stewart, the subscriber is billed for the access to the network whereas in the present invention the client provides an amount of compensation before the visual presentation is sent to the client. Accordingly, access to the Internet cannot correspond to a visual presentation, and thus, Stewart fails to teach this element of the claims.

ii) "An amount of compensation varies depending on which one or more sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source and a local source, the one or more sources including at least one of the remote source and the local source, where the remote source is more expensive to access than the local source," as delineated in independent claims 1, 23, 38 and 49.

Additionally, the claims recite "an amount of compensation varies depending on which one or more sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source and a local source, the one or more sources including at least one of the remote source and the local source, where the remote source is more expensive to access than the local source." *Emphasis Added.* Appellants respectfully submit that the geographic location of the user (e.g., distance from the American Airlines gate) is not equivalent to "a remote source" or "a local source," as alleged by the Examiner. Since the

user merely gains access to the same network whether he is geographically close or far from the American Airlines gate, this one “service provider’s network” cannot be both a remote source and a local source. Accordingly, there is no teaching in Stewart of, at least, “an amount of compensation varies depending on which one or more sources of a plurality of sources are accessed.”

In the Final Office Action and the Advisory Action, the Examiner states “Stewart teaches this limitation because it charges customers at difference based on the location of the service access point, which is similar to source of retrieve. Therefore, Stewart teaches this limitation” (Final Office Action, page 21 and Advisory Action, page 2). Appellants respectfully disagree.

In one embodiment of the claimed invention, “the plurality of sources are accessed to retrieve the plurality of presentation images.” There is no teaching or suggestion in Stewart of retrieving presentation images from these access points. Instead, these access points provide access to the service provider’s network. Accordingly, contrary to that alleged by the Examiner, the access point are not a source from which to retrieve presentation images, but rather merely a point from which a network may be accessed. Thus, access points cannot correspond to the plurality of sources including a remote source and a local source.

iii) “Loading the plurality of presentation images from a database, the database being the remote source,” as delineated in dependent claims 9, 10, 31, and 32.

In addition, dependent claims 9, 10, 31, and 32 recite the following limitation: “loading the plurality of presentation images from a database, the database being the remote source.” The Examiner alleges that Yang discloses this element of the claims. Appellants respectfully disagree and submit that Yang merely discloses a Jet database engine (DBEngine object 64) owning Workspace 65 which contains objects that define network connectivity and access (Yung, col. 7, lines 5-17). Since the database engine object 64 merely represents data access objects, there is no teaching of loading the plurality of images from the database engine object 64, allegedly the database as recited in the claims.

Further, dependent claims 9, 10, 31, and 32 recite “the database being the remote source.” Modifying Stewart to incorporate the teachings of Yang would render the modified technique taught by Stewart unsatisfactory for its intended purpose, or change its principle of operation. If

proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). If the proposed modification or combination of the prior art would change the principle of operation of the prior invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Here, modifying Stewart to incorporate the Yang would render the Stewart technique unworkable because the access points, allegedly a remote source, cannot be replaced by the database engine object 64. The access points in Stewart provide access to a network while the database engine object 64 in Yang merely represents data access objects. Since the database engine object 64 cannot provide access to a network to subscribers, the Stewart technique would be unworkable. Thus, there is no suggestion or motivation to make the proposed modification.

Appellants further submit that a *prima facie* case of obviousness has not been established for dependent claims 2-3, 7-11, 13, 25-27, 29-35, 42, 44, and 47. However, based on the dependency of claims 2-3, 7-11, 13, 25-27, 29-35, 42, 44, and 47 on independent claims 1, 23, and 38, respectively, which are believed to be in condition for allowance, Appellants respectfully submit that claims 2-3, 7-11, 13, 25-27, 29-35, 42, 44, and 47 are believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claims 1-3, 7-11, 13, 23, 25-27, 29-35, 42, 44, and 47 are in condition for allowance.

B. Claims 24, 43, and 46 are not obvious over Yang in view of Shiimori further in view of Higurashi in view of Stewart and further in view of Lin.

In the Final Office Action, claims 24, 43, and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Shiimori in view of Stewart and in further view of U.S. Patent No. 6,369,835 (Lin). Appellants respectfully traverse the rejection because a *prima facie* case of obviousness for dependent claims 24, 43 and 46 has not been established.

However, based on the dependency of claims 24, 43 and 46 on independent claims 1, 23, and 38, respectively, which are believed to be in condition for allowance, Appellants respectfully

submit that claims 24, 43 and 46 are believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claims 24, 43 and 46 are in condition for allowance.

C. Claims 38 and 40 are not obvious over Yang in view of Lin in view of Higurashi and in further view of Stewart.

In the Final Office Action, claims 38 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi and in further view of Stewart. Appellants respectfully traverse the rejection because a *prima facie* case of obviousness for claims 38 and 40 has not been established.

As discussed above in Section A, Yang, Higurashi and Stewart, alone or in combination, fail to disclose, at least, “receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the source remotely located from the computerized system is more expensive to access than a source local to the computerized system,” as recited in independent claim 38. Appellants reiterate the arguments provided above and submit that the cited references fail to disclose at least this element of the claims.

Additionally, Appellants submit that a *prima facie* case of obviousness has not been established for claim 40. However, based on the dependency of claim 40 on independent claim 38, which is believed to be in condition for allowance, Appellants respectfully submit that claims 40 are believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claims 38 and 40 are in condition for allowance.

D. Claims 45 and 48 are not obvious over Yang in view of Shiimori in view of Higurashi in view of Stewart and in further view of Vasudevan.

In the Final Office Action, claims 45 and 48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Shiimori in view of Higurashi in view of Stewart and in

further view of U.S. Patent No. 6,892,351 (Vasudevan). Appellants respectfully traverse the rejection because a *prima facie* case of obviousness for claims 45 and 48 has not been established.

However, based on the dependency of claims 45 and 48 on independent claims 1 and 23, respectively, which are believed to be in condition for allowance, Appellants respectfully submit that claims 45 and 48 are believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claims 45 and 48 are in condition for allowance.

E. Claims 49, and 50 are not obvious over Yang in view of Lin in view of Higurashi in view of Shiimori and in further view of Stewart.

In the Final Office Action, claims 49 and 50 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in further view of Stewart. Appellants respectfully traverse the rejection because a *prima facie* case of obviousness for claims 49 and 50 has not been established.

As discussed above in Section A, Yang, Higurashi, Shiimori and Stewart, alone or in combination, fail to disclose, at least, “receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source and a local source, where the remote source is more expensive to access than the local source,” as recited in independent claim 49. Appellants reiterate the arguments provided above and submit that the cited references fail to disclose at least this element of the claims.

Additionally, Appellants submit that a *prima facie* case of obviousness has not been established for claim 50. However, based on the dependency of claim 50 on independent claim 49, which is believed to be in condition for allowance, Appellants respectfully submit that claim 50 is believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claims 49 and 50 are in condition for allowance.

F. Claim 51 is not obvious over Yang in view of Lin in view of Higurashi in view of Shiimori in view of Stewart and in further view of Vasudevan.

In the Final Office Action, claim 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Lin in view of Higurashi in view of Shiimori in view of Stewart and in further view of Vasudevan. Appellants respectfully submit that a *prima facie* case of obviousness has not been established.

However, based on the dependency of claim 51 on independent claim 49, which is believed to be in condition for allowance, Appellants respectfully submit that claim 51 is believed to be allowable for at least the reasons set forth above.

Accordingly, Appellants respectfully submit that claim 51 is in condition for allowance.

VIII. CONCLUSION

Appellants respectfully request that the Board enter a decision overturning the Examiner's rejection of all pending claims, and holding that the claims satisfy the requirements of 35 U.S.C. §103(a).

Respectfully submitted,

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Dated: September 25, 2009

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IX. CLAIM APPENDIX

The claims of the present application which are involved in this appeal are as follows:

1. (Previously Presented) A method for displaying images comprising:
specifying at least one source of a plurality of sources from which to access a plurality of presentation images to be displayed in a visual presentation, the plurality of sources including a remote source and a local source;
accessing a plurality of presentation images from the one or more specified sources by a server, one or more of the plurality of presentation images having inconsistent presentation attributes;
arranging the plurality of presentation images by the server according to at least one characteristic provided by a client;
organizing the plurality of presentation images in the visual presentation by the server, wherein organizing includes automatically modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images to have consistent presentation attributes, wherein modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images includes modifying exposure of the one or more of the plurality of presentation images to be consistent;
requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images, where the remote source is more expensive to access than the local source; and
transmitting the visual presentation from the server to the client.
2. (Previously Presented) The method of claim 1 further comprising:
selecting the at least one characteristic being from the group consisting of a distance, a perspective, a magnification, and an angle.
3. (Previously Presented) The method of claim 1, wherein modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images

includes modifying size for the one or more of the plurality of presentation images to be consistent.

4-6. (Canceled)

7. (Previously Presented) The method of claim 1 wherein the images are digitalized images captured by a digital camera.

8. (Previously Presented) The method of claim 1 wherein accessing the plurality of presentation images comprises:

uploading the plurality of presentation images from the client, the client being the local source.

9. (Previously Presented) The method of claim 1 wherein accessing the plurality of presentation images comprises:

loading the plurality of presentation images from a database, the database being the remote source.

10. (Previously Presented) The method of claim 1 wherein accessing the plurality of presentation images comprises:

uploading at least one of the plurality of presentation images from the client, the client being the local source; and

loading at least one of the plurality of presentation images from a database, the database being the remote source.

11. (Previously Presented) The method of claim 1 wherein accessing the plurality of presentation images comprises:

loading at least one of the plurality of presentation images from a computer-readable medium, the computer-readable medium being one of the one or more specified sources.

12. (Canceled)

13. (Previously Presented) The method of claim 1 further comprising:
saving the visual presentation on a computer-readable medium.

14-22. (Canceled)

23. (Previously Presented) A first computer-readable medium having computer-executable instructions to cause a processor of a server to create a visual presentation by performing operations comprising:

determining one or more sources of a plurality of sources from which to access a plurality of presentation images, the plurality of sources including a remote source and a local source;

accessing the plurality of presentation images from the one or more specified sources, the plurality of presentation images having inconsistent presentation attributes;

arranging the plurality of presentation images according to characteristics preselected by a client, the characteristics including at least three of a distance, a perspective, a magnification, and an angle;

organizing the plurality of presentation images in the visual presentation, wherein organizing includes automatically modifying the inconsistent presentation attributes of the plurality of presentation images to have consistent presentation attributes, wherein modifying the inconsistent presentation attributes of the plurality of presentation images includes modifying the inconsistent presentation attributes including an exposure; and

requesting and receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of the plurality of sources are accessed to retrieve the plurality of presentation images, where the remote source is more expensive to access than the local source.

24. (Previously Presented) The first computer-readable medium of claim 23, wherein the at least three characteristics includes the magnification if the visual presentation is to zoom away from a location.

25. (Previously Presented) The first computer-readable medium of claim 23, wherein modifying the inconsistent presentation attributes of the plurality of presentation images includes modifying the inconsistent presentation attributes including a size and a color.

26. (Original) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
accessing an address for a location.

27. (Original) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
accessing location coordinates for a location.

28. (Canceled)

29. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
accessing additional information, wherein the additional information is viewing preferences are selected by the client and affect the appearance of the visual presentation.

30. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
uploading the plurality of presentation images from the client, the client being the local source.

31. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
loading the plurality of presentation images from a database, the database being the remote source.

32. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
uploading at least one of the plurality of presentation images from the client, the client being the local source; and
loading at least one of the plurality of presentation images from a database, the database being the remote source.

33. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

loading at least one of the plurality of presentation images from a second computer-readable medium.

34. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

sending the visual presentation to the client.

35. (Original) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:

saving the visual presentation on a second computer-readable medium.

36. (Withdrawn) A method for receiving compensation for use of an imaging service by a computer user comprising:

determining an amount of compensation based upon use of the imaging service by the computer user;

sending a request for payment of the amount of compensation to the computer user; and
receiving the amount of compensation.

37. (Withdrawn) The method of claim 36 wherein use of the imaging service comprises:

accessing the imaging service;

sending information to the imaging service; and

downloading a visual presentation.

38. (Previously Presented) A computerized system comprising:
means for accessing a plurality of presentation images from at least one source of a plurality of sources, the plurality of sources including a source remotely located from the computerized system and a source local to the computerized system;

means for receiving information identifying characteristics to produce a visual presentation from a client, the characteristics including a distance and a magnification;

means for arranging the presentation images according to the characteristics provided by the client;

means for organizing the plurality of presentation images in the visual presentation, wherein organizing includes automatically modifying inconsistent presentation attributes of the plurality of presentation images to have consistent presentation attributes;

means for modifying the inconsistent presentation attributes of the plurality of presentation images, the presentation attributes including exposure; and

means for receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the source remotely located from the computerized system is more expensive to access than a source local to the computerized system.

39. (Canceled)

40. (Previously Presented) The computerized system of claim 38 further comprising:
means for modifying at least one of the inconsistent presentation attributes of the plurality of presentation images, the presentation attributes being size.

41. (Canceled)

42. (Previously Presented) The method of claim 1, wherein the specifying from the at least one source of the plurality of sources comprises:

sending a web page to the client, the web page identifying parameters that are used for accessing the plurality of presentation images.

43. (Previously Presented) The method of claim 2, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying how quickly the visual presentation zooms in or out if the distance or magnification characteristic from the group is selected.

44. (Previously Presented) The method of claim 2, wherein prior to accessing the plurality of presentation images, the method further comprises:
specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected.

45. (Previously Presented) The method of claim 1, wherein prior to accessing the plurality of presentation images, the method further comprises:
specifying whether the visual presentation appears in black-and-white or color.

46. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
specifying how quickly the visual presentation zooms in or out if the distance or magnification characteristic from the group is selected.

47. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected.

48. (Previously Presented) The first computer-readable medium of claim 23 having computer-executable instructions further comprising:
specifying whether the visual presentation appears in black-and-white or color.

49. (Previously Presented) A method for displaying images comprising:
selecting at least one characteristic being from a group including a distance, a perspective, a magnification, and an angle, the selecting being based on information provided by a client;
specifying how quickly a visual presentation zooms in or out if the distance or magnification characteristic from the group is selected;
accessing a plurality of presentation images, one or more of the plurality of presentation images having inconsistent presentation attributes;

arranging the plurality of presentation images by a server according to the at least one characteristic;

organizing the plurality of presentation images in a visual presentation, wherein organizing includes automatically modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images to have consistent presentation attributes, wherein modifying the inconsistent presentation attributes of the one or more of the plurality of presentation images includes modifying exposure for the one or more of the plurality of presentation images to be consistent throughout the plurality of presentation images; and

receiving compensation from the client before the visual presentation is sent to the client, an amount of compensation varies depending on which sources of a plurality of sources are accessed to retrieve the plurality of presentation images, the plurality of sources including a remote source and a local source, where the remote source is more expensive to access than the local source.

50. (Previously Presented) The method of claim 49, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying how quickly the visual presentation pans around a location if the perspective or angle characteristic from the group is selected.

51. (Previously Presented) The method of claim 49, wherein prior to accessing the plurality of presentation images, the method further comprises:

specifying whether the visual presentation appears in black-and-white or color.

X. EVIDENCE APPENDIX

None

XI. RELATED PROCEEDINGS APPENDIX

None